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PACIFIC TELESIS
Group-Washington

ORIGINAL
FILE

May 26, 1992

Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Ms Searcy:

Re: *CC Docket No. 92-90, The Telephone Consumer Protection Act of 1991*

On behalf of Pacific Bell and Nevada Bell, please find enclosed an original and six copies of their "*Comments*" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

Celia Nogales/KR

Enclosures

No. of Copies rec'd 0+6
List A B C D E

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
The Telephone Consumer Protection Act of 1991	)	CC Docket No. 92-90
	)	

COMMENTS OF PACIFIC BELL AND NEVADA BELL

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Date: May 22, 1992

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SUMMARY

Pacific Bell and Nevada Bell support the Commission's proposed rules protecting the privacy rights of telephone subscribers. The Pacific Companies request that the Commission clarify the proposed rules so that carriers are exempt from liability from transporting messages which may violate the terms of the Act. Also, operators of public fax machines, and of voice messaging services should similarly be exempted from liability.

The Pacific Companies support implementation of a method of restricting telephone calls to subscribers who do not wish to receive solicitations. However, whatever method is adopted by the Commission should be one which does not involve the local exchange companies beyond notifying their subscribers of their rights not to receive unwanted telemarketing calls.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
The Telephone Consumer Protection Act of 1991	)	CC Docket No. 92-90
	)	
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COMMENTS OF PACIFIC BELL AND NEVADA BELL

Pursuant to the Commission's Notice of Proposed Rulemaking, Pacific Bell and Nevada Bell, (the "Pacific Companies") file these comments. The Commission has proposed various rules implementing the Telephone Consumer Protection Act of 1991 ("the Act"). Generally the proposed rules relate to restrictions on telemarketing and use of automatic dialing systems.

I. THE COMMISSION'S RULES SHOULD CLEARLY DEFINE THE AUTOMATIC DIALING SYSTEMS SUBJECT TO THE RULES.

Proposed rule §64.1100 setting forth restrictions on delivery of certain messages refers to "automatic telephone dialing system," yet neglects to define that term. Section 227 of the Act defines an automatic telephone dialing system as equipment which has the capacity

A. to store or produce telephone numbers to be called, using a random or sequential number generator, and

B. to dial such numbers.[1]

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[1] Section 227(a)(1) of the Communication's Act.

The Pacific Companies suggest that this definition be adopted and set forth in §64.1100 or, in the alternative, §64.1100 should specifically reference the definition in §227(a)(1). It is important to distinguish calls which are initiated using a random or sequential number generator from those where a specific number is dialed, either manually or with computer assistance. The former are prohibited under §227 of the Communication's Act; the latter are not.

Many types of telephone systems have the capacity to generate a called number. Under "store and forward" or voice mail systems, the system itself could generate and dial the number based on input from the end user. For example, some voice mail systems allow a user to program the system with a telephone number that the system will call whenever the user receives a message in the voice mailbox. The system will actually dial the number programmed by the user and relate that a message has been delivered. Without clarifying that the "automatic telephone dialing system" referred to in §64.1100 relates solely to sequential or random number generation, the restrictions could apply to these non-intrusive types of telephone service.

II. THE COMMISSION'S RULES SHOULD EXEMPT CARRIERS AND OPERATORS OF MESSAGING SYSTEMS.

Section 64.1100 also restricts telephone calls which are initiated using an "artificial or prerecorded voice." Yet the scope of the restriction is unclear. A vendor or carrier of a

voice message should not be subject to these rules. For example, a voice mail system vendor cannot control the content of the messages used in its systems. And, certainly, common carriers cannot and should not monitor or control the telephone calls placed on its network. The Pacific Companies believe that the Commission attempted to alleviate this concern by limiting the restriction only to those who "initiate" a telephone call.[2] However, the word initiate is not defined.

In a "store and forward" type messaging service, an end user records a message which will be delivered to the called party at a later time. To deliver the message, the system initiates, or more accurately, reinitiates, the call and delivers the prerecorded message. In that case, the operator of the store and forward system should not be liable if the message placed over the system is one which violates the terms of the Act, even though it may have "initiated" a call which contained a prerecorded message.

The intention of the Act and the Commission's proposed rules is obviously intended to apply to the end user doing the solicitation and not the intermediary purveyor or carrier of the

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[2] Proposed section 64.1100(a)(1) and (2) of the Commission's Rules.

telephone service or system. Senator Hollings specifically addressed the application of this bill to carriers:

> Finally, I want to clarify how this bill applies to carriers who might unknowingly transmit calls made in violation of this bill. It is not our intention that a carrier should be held liable for transmitting over the carrier's network any call or message in violation of this legislation made by an entity other than the carrier. This intention is consistent with our policy that carriers should not be responsible for the content of messages delivered over their networks. If carriers were held responsible for such transmissions, they might be forced to monitor telephone conversations, which would not be in the public interest. To the extent carriers are responsible for initiating or placing telephone calls or messages, however, they must comply with the terms of this bill.[3]

Other members of Congress specifically addressed application of the Act to store and forward type messaging service:

> Among categories which should be made available to the public are voice messaging services which deliver legitimate personal messages to one or more persons.
>
> The FCC has already authorized as in the public interest a service which allows a caller from a coin telephone to record a message for later delivery when encountering a busy signal or no answer. Likewise, a similar service which the FCC has also authorized would allow a person to send a message to a

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[3] Congressional Record, November 27, 1991. The full text of the statements made by members of Congress is attached to these comments as Appendix A.

> group of people through a recorded message., Clearly, these types of personal voice messaging services are not invasive of a person's privacy rights, and this bill is not intended to prohibit these or other such services yet to be developed.[4]

Similarly, Senator Hollings described voice messaging services and stated:

> The FCC should consider whether these types of prerecorded calls should be exempted and under what conditions such an exemption should be granted whether as a noncommercial call or as a category of calls that does not invade the privacy rights of consumers.[5]

Therefore, the Congressional intent is clear that carriers and other intermediary message handlers should not be subject to the Act's restrictions by virtue of the messages carried over their systems. The Commission should clarify the scope of the restrictions in the Act by adding a new subsection §64.1100(e) stating:

> Carriers and operators of systems which do not initiate a telephone call without input from an end user shall not be liable for transmitting messages or calls made by an entity other than the carrier or operator.[6]

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[4] Representative Rinaldo, Congressional Record, November 26, 1991.

[5] Congressional Record, November 27, 1991.

[6] Of course, if a common carrier initiates a call subject to these rules, such as a telemarketing sales call, it would be bound to these requirements.

III. CARRIERS AND OPERATORS OF PUBLIC FAX MACHINES SHOULD BE EXEMPT FROM LIABILITY UNDER THE ACT.

The Pacific Companies do not oppose the Commission's rules relating to technical requirements of facsimile machines.[7] However, the Commission should recognize that the use of public facsimile machines may undermine the goals of these rules.

Public facsimile machines are those located in stores or other public places where a facsimile may be sent by a member of the public. Typically, the person whose message is being sent does not bear any relationship to the place of origin of the facsimile. While the facsimile operator may comply with the rules requiring identifying data to be placed on the first page or in the margins of each page, that identifying data may not be helpful in identifying the true sender of the fax. The Commission should make clear that the owners or operators of public use facsimile machines are not liable for the messages sent over their fax machines. Similarly, common carriers over whose lines fax messages are sent should be immune from liability under this Act.

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[7] Proposed section 68.318 of the Commission's Rules.

IV. THE IDENTIFICATION REQUIREMENTS FOR PRERECORDED VOICE MESSAGES SHOULD BE LIMITED TO TELEPHONE CALLS AS DEFINED IN §64.1100(c).

The Act requires identification of callers using prerecorded or artificial voice messages.[8] The Commission's proposed rule §64.1100(d) states:

> Automatic Dialing Devices; identification of the caller. All artificial or prerecorded telephone messages shall:
>
> (1) At the beginning of the message, state clearly the identity of the business, individual, or other entity initiating the call, and
>
> (2) During or after the message, state clearly the telephone number or address of such business, other entity or individual.

The term "automatic telephone dialing system" should be substituted for "automatic dialing devices," since the former is the specific term defined in the Act, and, as the Pacific Companies have suggested earlier, should be repeated in the Commission's Rules.

Further, the section should limit the requirements to artificial or prerecorded messages used in conjunction with automatic telephone dialing systems. While that intention seems evident from section 64.1100(d) taken as whole, the actual language of §64.1100(d) does not limit the requirement, but

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[8] Section 227(d)(3) of the Act.

instead appears to apply to all prerecorded or artificial messages.

The Commission's rules should clarify that the identification requirements only apply to the original initiator of the call, and can only be enforced against the initiator. It is the end user utilizing a prerecorded or artificial voice message who should bear sole responsibility for complying with this section. Again, the Pacific Companies proposed rule §64.1100(e) will clarify this issue.

Finally, the same exemptions found in §64.1106(c) for noncommercial uses of the telephone should apply to these identification requirements. Congress did not intend for these identification requirements to apply to casual calls unrelated to solicitations (e.g., personal messages left in voice mailboxes). Representative Rinaldo, the ranking minority member of the Telecommunications and Finance Subcommittee, in his statements to Congress, clearly noted that the requirements were intended to be limited to solicitation-type calls:

> This bill also requires the FCC to restrict only those categories of artificial or prerecorded voice calls which are made for commercial purposes and will affect the privacy rights that the bill intends to protect.[9]

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[9] Congressional Record, November 26, 1991.

V. SECTION 208 COMPLAINTS UNDER THE COMMUNICATION'S ACT WILL NOT ACCOMMODATE CAUSES OF ACTION AGAINST NON-CARRIERS.

The Act provides the right to a private cause of action for violation of the provisions of the Act to be brought in a state court.[10] In the Commission's notice, that ability is expanded:

> In addition, a complaint may be filed at the Commission based on a violation of §227 of the Communication's Act of 1934, 47 U.S.C. §227, or the regulations adopted thereunder.[11]

There are two problems with this expansion. First, under section 208 of the Communication's Act, complaints before the Commission may only be filed against common carriers. To the extent a common carrier initiates a telephone solicitation in violation of the Act's restrictions, then a complaint to the Commission based on that carrier's telemarketing practices may be tenable. However, the vast majority of telemarketing is by individuals or entities who are not common carriers. A suit against one of those individuals or entities could not be brought under the Commission's complaint procedures.

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10 Section 227(b)(3) and 227(c)(5).

11 NPRM, para. 6.

Second, the Act also provides for a suit by a state attorney general based on a pattern of violation of the §227 restrictions, to be heard exclusively in federal court.[12] State attorney general actions, then, even if against a common carrier, must be brought in federal district court.

VI. TO RESTRICT TELEPHONE SOLICITATIONS OF RESIDENTIAL SUBSCRIBERS, THE COMMISSION SHOULD PROVIDE A METHOD WHICH LIMITS INVOLVEMENT OF LOCAL EXCHANGE COMPANIES.

The Act requires the Commission to examine various alternatives that could be used to protect the privacy rights of residential subscribers who object to receiving telephone solicitations.[13] The Commission seeks comment on various methods, such as a database method, blocking technology, directory markings, do not call lists, or other alternatives.[14] The Pacific Companies support the protection of privacy rights of telephone subscribers. The Pacific Companies do not believe that some of the alternatives suggested by the Commission adequately protect those rights.

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12 Section 227(f)(2).

13 Section 227(c)(1).

14 NPRM, para. 27-33.

A. The Database Method Should Not Involve The Local Exchange Companies.

The Pacific Companies have no objection to the establishment of a national or regional database to perform the function of compiling a list of subscribers who object to receiving telephone solicitations.[15] The Pacific Companies, however, do not believe the responsibility for funding or administering such a database should fall on the local exchange companies. Telemarketers should be responsible for funding, designing and administering this database since they are the initiators of such calls and receive the benefits (from successful telemarketing calls) that could offset the cost of the system. The role of the local exchange companies should be limited to notifying their customers of their rights not to receive unwanted telemarketing calls.

The Pacific Companies note that to be effective, and to truly protect the privacy rights of customers, the database would need to be continuously updated so that current information is readily available. The approach cited by the Commission in use in Florida requires quarterly updates. The Commission notes that this 3-6 month lag period may not satisfy the goals of the Act.[16]

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[15] This assumes that voice mail and messaging services, referred to earlier in section II are exempt from the restricitons of the Act.

[16] NPRM, para. 28.

B. Blocking Technology Is Not Feasible At This Time.

Utilizing the public switched network to block telemarketing calls is problematic. This alternative requires all telemarketers to migrate to the same telephone prefix, so that subscribers can selectively block calls from that prefix. Given the number of telemarketers, and the impending exhaust of various numbering resources, the Pacific Companies do not believe this is a viable alternative. Also, present technology does permit selective call blocking on a prefix basis. Vendor development would be required.

Another major problem with this proposal is that there is no nationwide prefix available that could be used for this application. In another proceeding,[17] the Commission is examining the use of N11 as a dialing number, and it is possible that a nationwide prefix of N11 could be designed for use with this novel purpose. Similarly, there may be a Service Access Code ("SAC") (in the form "N00") that could be used as the identifier for telemarketing calls. Currently, the North American Numbering Plan Administrator is holding the SAC codes, and N11 codes in reserve for use as Numbering Plan Area ("NPA") codes (commonly known as area codes) in the event the supply of NPAs exhaust prior to the implementation of interchangeable NPAs.

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[17] The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, Notice of Proposed Rulemaking, released May 6, 1992.

Further, even if a nationwide prefix, or even SAC is assigned for this purpose, CLASS type features would be needed for a subscriber to take advantage of a call blocking technology. Calling party number, and then some sort of selective call rejection would be required to implement this proposal. This type of technology is very costly to deploy. The Pacific Companies do not plan, at this time, on deploying this technology ubiquitously. And, it is not ubiquitous throughout other parts of the country. Because of the uncertainties surrounding this technology, the Pacific Companies do not endorse this proposal as a feasible way of protecting subscriber's privacy rights.

C. Directory Markings Will Not Be Effective.

The Pacific Companies do not support the proposal of having a special directory marking for customers who don't wish to receive solicitations. First, directories are only updated once per year, so that outdated information would be commonplace. In the Notice, the Commission found that a 3-6 month lag in updating information may not meet the requirements of the Act.[18] For directories, which are only updated once a year, the lag would be far greater and therefore less acceptable as a method of preserving privacy rights. Second, this proposal

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[18] NPRM, para. 28.

puts the administrative (and perhaps the liability) burden on the telephone company, who is not the cost causer. The Act was designed to protect the public from aggressive telemarketing techniques, not from the telephone company as the provider of basic telephone service. Therefore, the local exchange company which provides directory service should not be responsible for administering such a system.

D. Do Not Call Lists May Be Appropriate.

The Pacific Companies support this method since it apparently places the burden on the cost causer by requiring telemarketers to maintain the lists of those who do not wish to be called. Sharing of information among telemarketers would obviously be preferred since subscriber's preference could then be circulated among various telemarketing organizations.

E. Time of Day Restrictions Are Appropriate.

The Pacific Companies support the time of day restriction proposal, requiring all telemarketing to be conducted between 9:00 a.m. and 9:00 p.m. The Pacific Companies note that any such restriction should clarify that it is the time of day of the called party that must be examined to comply with the time of day restriction.

VII. CONCLUSION

The Pacific Companies support the protection of subscriber's privacy rights. The rules proposed by the Commission seek to minimize intrusion of aggressive telemarketers. The Pacific Companies' comments on the Commission's proposed rules center on protecting the ability of common carriers, and providers of messaging type services, to continue to do business without the burden of monitoring each message transmitted over its network.

Respectfully submitted,

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Date: May 22, 1992

APPENDIX A

S. 1462
Telephone Consumer Protection Act of 1991
[CR page S-18784, 207 lines]
SENATOR HOLLINGS
November 27, 1991

Mr. President, I am pleased to report that we have come to an agreement with the House on a bill to restrict invasive uses of telephone equipment. The amendment version before the Senate today of S. 1462, which I introduced earlier this year, is the result of negotiations with the industry and Members on both sides of the aisle in the House and the Senate. This amendment incorporates the principal provisions of S. 1462 and S. 1410, which passed the Senate on November 7, and H.R. 1304, which passed the House on November 18. I believe that this revised bill responds to all the major concerns of the parties involved, and I urge my colleagues to support it.

The bill includes provisions to restrict telephone calls that use an automated or computerized voice. These calls are a nuisance and an invasion of our privacy. The complaints received by the Federal Communications Commission [FCC] and my office indicate that people find these calls to be objectionable regardless of the content of the message or the initiator of the call. Restricting such calls is constitutionally acceptable as a reasonable place and manner restriction.

At the same time, there may be certain types of automated or prerecorded calls that are not as invasive of privacy rights as others. I use the term privacy rights to include the concepts of privacy invasion and nuisance. Therefore, this bill includes a provision that allows those who use automated or prerecorded voice systems to apply to the FCC for an exemption from this prohibition. The bill gives the FCC the authority to exempt from these restrictions calls that are not made for a commercial purpose and categories of calls that the FCC finds do not invade privacy rights. If the FCC determines that such an exemption is warranted based on the record it develops, the FCC may grant such an exemption, subject to whatever conditions it determines to be appropriate.

The phrase "calls that are not made for a commercial purpose" is intended in the constitutional sense and is intended to be consistent with the court decisions which recognize that noncommercial speech can receive less protection than commercial speech. This phrase is intended to allow the FCC to design rules to implement this bill that are consistent with the free speech guarantees of the Constitution if it finds that a distinction between commercial and noncommercial calls is justified and can be supported by the record.

The FCC is given the authority to exempt certain types of calls, and the FCC is not limited to considering existing technologies. The FCC is given the flexibilty to consider what rules should apply to future technologies as well as existing technologies.

Some telephone companies are beginning to offer a voice messaging service which delivers personal messages to one or more persons. A person calling from a pay telephone at an airport, for instance, may call and leave a recorded message to be delivered later if the called line is busy or no one answers the call. Some debt collection agencies also use automated or prerecorded messages to notify consumers of outstanding bills. The FCC should consider whether these types of prerecorded calls should be exempted and under what conditions such an exemption should be granted either as a noncommercial call or as a category of calls that does not invade the privacy rights of consumers.

In considering whether to exempt certain calls, however, the bill states that the FCC may not exempt telephone solicitations. These calls are certainly commercial calls and the evidence before the Congress leaves no doubt that these types of calls are an invasion of privacy and a nuisance.

As stated earlier, this bill prohibits automated or prerecorded telephone calls to the home, unless the called party consents to receiving such a call, or unless the call is initiated for emergency purposes. The FCC must determine what constitutes an emergency purpose. In defining this term the FCC could find that "emergency purpose" includes any automated telephone call that notifies consumers of impending or current power outages, whether these outages are for scheduled maintenance, unscheduled outages caused by storms or similar circumstances, cut off of power due to late payment of bills, power interruptions for load management programs, or other reasons. Power interruptions can be detrimental to the public health and safety. Therefore, the FCC should consider whether all or certain types of outages should be considered an emergency.

Section 227(e)(1) clarifies that the bill is not intended to preempt State authority regarding intrastate communications except with respect to the technical standards under section 227(d) and subject to section 227(e)(2). Pursuant to the general preemptive effect of the Communications Act of 1934, State regulation of interstate communications, including interstate communications initiated for telemarketing purposes, is preempted.

I want to clarify a couple of other changes to the bill that we have made in response to some concerns of the telemarketing industry. We have included a private right of action for consumers harmed by authomated or prerecorded calls and a different private right of action for consumers who receive telemarketing soliciations. We have amended this provision in order to give telemarketers an affirmative defense in court so that this provision does not impose strict liability on any telemarketer that might violate the provisions of the bill.

Finally, I want to clarify how this bill applies to carriers who might unknowingly transmit calls made in violation of this bill. It is not our intention that a carrier should be held liable for transmitting over the carrier's network any call or message in violation of this legislation made by an entity other than the carrier. This intention is consistent with our policy

that carriers should not be responsible for the content of messages delivered over their networks. If carriers were held responsible for such transmissions, they might be forced to monitor telephone conversations, which would not be in the public interest. To the extent carriers are responsible for initiating or placing telephone calls or messages, however, they must comply with the terms of this bill.

I thank my counterparts on the House side, Chairman Dingell of the House Energy and Commerce Committee, Chairman Markey of the House Telecommunications and Finance Subcommittee, and the ranking minority member of the Telecommunications and Finance Subcommittee, Mr. Rinaldo. I also recognize the efforts of Senator Danforth, the ranking member on the Senate Commerce Committee, Senator Inouye, chairman of the Senate Communications Committee, and Senator Pressler, the author of S. 1410, in assisting in the development of this compromise. I am pleased that we were able to accommodate the interests of all Members in a bipartisan way.

TELEMARKETING

Mr. PRESSLER. Mr. President, I support Senate passage of S. 1462. This legislation is the result of a House and Senate conference on comprehensive telemarketing legislation. It incorporates legislation Congressman Markey introduced in the House of Representatives and I introduced earlier this year in the Senate, and legislation introduced by Senator Hollings. S. 1462 contains the provisions I first suggested in S. 1410, which passed the Senate earlier this year. I introduced this legislation in response to the national outcry over the explosion of unsolicited telephone advertising. I want to thank Chairman Hollings and Chairman Markey for their efforts both to forge an agreement on our three bills.

Mr. President, consumers in my home State of South Dakota are fed up with the annoyance of unwanted telephone solicitations. Unlike other communications media, the telephone commands our instand attention. Junk mail can be thrown away. Television commercials can be turned off. The telephone demands to be answered.

People are increasingly upset over this invasion of their privacy by unrestricted telemarketing. In fact, the consumer backlash that has arisen from the cost and the interference of unsolicited telemarketing calls has sparked the introduction of over 1,000 bills in State legislatures around the country seeking to limit this abuse. The complaints of consumers have been heard.

This past June, we held hearings in the Commerce, Science, and Transportation Committee on S. 1410. During these hearings, we received testimony from consumer advocates, private citizens, and representatives of the telemarketing industry. The testimony we received was clear. The Federal Government needs to act now on uniform legislation to protect consumers.

The primary purpose of this legislation is to develop the necessary ground rules for cost-effective protection of consumers from unwanted telephone solicitations. These rules should allow responsible telemarketers to reach consumers who are most responsive to this form of solicitation, while eliminating the cost and time of contacting those individuals who would be least responsive.

To accomplish this balanced approach, the substitute we have before us today directs the FCC to prescribe regulations to protect the privacy rights of consumers from the intrusion of unsolicited telephone marketing calls. One such proposal the FCC would consider is the use of a telephone electronic database that would allow consumers to have their phone numbers protected from unsolicited advertising. This type of consumer protection has already been used with great success in the State of Florida. Another proposal the FCC would examine is the placement of all telemarketers on a single exchange, thus allowing consumers to block calls from that exchange.

Some objected to the original legislation because of the extent to which it outlined the safeguards necessary for the creation of a national database. While I personally believe that an electronic database will give the most promising protection for consumers, we recognize that newer technologies could be used more effectively in the future. It is important to note that certain anticompetitive questions may arise as a result of the form of protection the FCC chooses. For this reason, it is important for the FCC to keep a close watch on the impact of its rulemaking on businesses that compete with larger monopolies.

We included in this substitute a provision that directs the FCC to examine whether local telephone solicitations by small businesses and second-class mail permit holders should be subject to the same FCC regulations that would apply to all other telemarketers. Many small businesses conduct responsible telemarketing in the local areas they serve. Since their business depends upon their good standing in the community, they conduct their own telemarketing in a very respectable way.

We include in this bill an exemption for businesses that have an established business relationship with their customers. For example, if Citibank's credit card operation needed to inform customers about new services it intended to provide to their credit card customer, clearly this contact would be allowed.

The effect of this legislation will be to prohibit cold calls by any telemarketer to the telephone of a consumer who has no connection or affiliation with that business and who affirmatively has taken action to prevent such calls. Many responsible telemarketers have told me that this will save them both time and money by reaching only those people who are most likely to respond positively to their solicitations.

S. 1462 also addresses problems arising from computerized calls. Due to advances in auto-dialer technology, machines can be programmed to deliver a prerecorded message to thousands of sequential phone numbers.

This results in calls to hospitals, emergency care providers, unlisted numbers, and paging and cellular equipment. There have been many instances of auto-dial machines hitting hospital switchboards and sequentially delivering a recorded message to all telephone lines. In some cases, the calling machine does not release the called party's line until the recorded message has ended. This renders the called party's phones inoperable. In an emergency situation, this can create a real hazard.

To remedy this situation, the substitute requires auto-dialer machines to release the phone line automatically after the called party hangs up. In addition, it requires all prerecorded messages to clearly identify the name, phone number or address of the person or business initiating the call.

This bill also allows hospitals, police stations, fire stations, and owners of paging and cellular equipment to eliminate all unsolicited calls.

The growth of facsimile machines in the workplace has brought another form of unsolicited advertising--the junk fax. Unsolicited facsimile advertising ties up fax machines and uses the called party's fax paper. This costs the recipient both time and money. The substitute bill requires that auto-dial fax machines clearly mark on all transmissions the date and time of transmission, the identity of the sender, and the telephone number of the sending machine.

While our substitute will not end all unsolicited calls, it will give back to consumers the freedom to choose how their telephones are used. The balanced approach we take in the Pressler-Markey-Hollings legislation, will finally give consumers relief from modern door-to-door salesmen who now have the unrestricted ability to invade the privacy of our homes at any time.

Congressional Record dated Tuesday, November 26, 1991
Measure Debated by MARKEY (D-MA) and 8 others -- S. 1462
Telephone Consumer Protection Act of 1991 [CR page H-11310, 616 lines]

TELEPHONE CONSUMER PROTECTION ACT OF 1991

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1462) to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment, as amended.

Attributed to SPEAKER pro tempore The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. Markey] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. Rinaldo] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Markey].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.